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8/17/07



RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
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First Named Inventor: Terrence C. Dahl
Serial Number: 10/757,122
Filed: January 13, 2004
Attorney Docket No.: 269.PC
Art Group Unit: 1617
Examiner: Yong Soo Chong
Title: COMPOSITIONS AND METHODS FOR COMBINATION ANTIVIRAL THERAPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Dear Sir:

This is responsive to the US Patent and Trademark Office Action mailed June 21, 2007 setting a one month period for response. A Request for a One Month Extension of Time is submitted herewith, making the response date August 21, 2007.

The Office has promulgated a six-way election/restriction requirement. According to the Action, claims 24-48 are each included in Groups II-VI. While PIs, NNRTIs and the like are certainly not *excluded* from the scope of these claims, they are not included and it is this that should determine claim grouping. Accordingly, Applicants request that the election/restriction requirement be recast as

Group I, claims 1 – 23 (method-of-use of co-formulated compositions comprising FTC and GS-7340),

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Group II, claims 24-48 (co-formulations of FTC and GS-7340),

Group III, claims 46-50(part) and 51 (co-formulations of FTC, GS-7340 and PI),

Group IV, claims 46-50(part) and 52 (co-formulations of FTC, GS-7340 and NNRTI),

Group V, claims 46-49(part) and 53 (part) (co-formulations of FTC, GS-7340 and Reyataz),

Group VI, claims 46-49(part) and 53 (part) (co-formulations of FTC, GS-7340 and Kaletra),

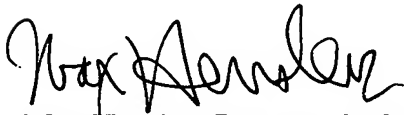
Group VII, claims 46-49(part) and 53 (part) (co-formulations of FTC, GS-7340 and Sustiva).

Applicants do not believe that the inventions of Groups I and II are distinct and independent. The examiner's rationale that the process of Group I can be used with a materially different product than Group II is not supportable. Group I incorporates the product language of Group II precisely, so no other product can be used in the process of Group I. In addition, sexual abstinence is not another "product" for use in the process of Group I.

With regard to Groups III – VII, which the examiner has grouped as being "unrelated", applicants would request that the election/restriction requirement be reconsidered in light of MPEP 806.05j (Related Products; Related Processes). According to the MPEP such claims must be separable on all of 3 grounds, with the burden being upon the examiner to provide an example that the inventions are distinct. The examiner has not done so for Groups III – VII.

In view of the foregoing, applicants respectfully traverse the election/restriction requirement. This notwithstanding, applicants elect the broad product invention (Group II as properly cast).

Respectfully submitted,



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